

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 893 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No.

LEGAL HEIRS OF ASHOKBHAI MASHRIBHAI VADHIYA

Versus

KHIMABHAI SAVADASBHAI MER

Appearance:

MS SEJAL K MANDAVIA for Petitioner

RULE SERVED for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 06/07/98

ORAL JUDGEMENT

The respondents though served have neither appeared in person nor filed their appearance through Advocates.

The petitioner, original claimant, has filed this application with a request to transfer Motor Accident Claim Petition No. 260 of 1995 from the Motor

Accident Claims Tribunal, Surendranagar to the Motor Accident Claims Tribunal, Junagadh. It is the case of the applicants that they are the father and mother of the deceased Ashok. It is their case that on 11-5-94 when the deceased was serving as Clearner with the respondent No.1 and was travelling in the truck No. GTP 7719 and while they were going from Ahmedabad to Porbandar , on Ahmedabad-Rajkot highway another truck came with full speed and dashed with the truck in which the deceased was travelling with the result the deceased died on the spot. Therefore the father and mother-the applicants herein have filed Motor Accident Claim Petition No. 260 of 1995 which is pending before the Motor Accident Claims Tribunal , Surendranagar.

The applicants have stated that they are residing at Mangrol, District Junagadh and therefore it would be very difficult for them to go to Surendranagar on each and every date of hearing of the Claims Petition. Since the applicants have lost their earning son aged 22 years and and since respondents No.1-the driver of the vehicle involved in the accident also reside in Junagadh district, coupled with the fact that respondents Nos.2 and 3 have their branch offices in Junagadh ,the applicants have , therefore, prayed that it would be more easy and more convenient to the applicants as well as respondents to attend the proceedings at Junagadh if the said proceedings are ordered to be transferred at Junagadh from Surendranagar. Therefore, in view of the amendment of Section 166(2) of the Motor Vehicles Act whereby it is provided that every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred, or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides. In view of this provision, I am of the opinion that it would not only be in the interest of justice but it would be convenient to all the parties to have the claim petition tried and disposed of by the M.A.C.Tribunal,Junagadh.

In the result, this application is allowed. The Motor Accident Claim Petition No.260 of 1995 pending before the Motor Accident Claims Tribunal, Surendranagar is ordered to be transferred to the Motor Accident Claims Tribunal,Junagadh. Office is directed to send writ of this order to both the Courts i.e. at Surendranagar and Junagadh. Rule is made absolute to the aforesaid extent with no order as to costs.

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